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P R O C E E D I N G S

DEPARTMENT OF LABOR AND INDUSTRIES
PUBLIC HEARING
ERGONOMICS

Tacoma Public Library
Olympic Room
Tacoma, Washington

DATE: January 10, 2000

REPORTED BY: Paula Somers, CSR
CSR NO.: SO-ME-RP-L535N2

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 DEPARTMENT OF LABOR AND INDUSTRIES STAFF IN ATTENDANCE:

2

3 MR. SELWYN WALTERS - Hearings Officer, Agency Rules
4 Coordinator

5

6 MR. MICHAEL WOOD - Hearings Officer, Senior Program Manager

7

8 MR. TRACY SPENCER - Standards Program Manager

9

10 MR. JOSH SWANSON - Administrative Regulations Coordinator

11

12 MS. JENNY HAYS - Safety & Health Specialist

13

14 MR. RICK GOGGINS - Ergonomist

15

16 MR. JOHN PEART - Industrial Hygienist

17

18 DR. MICHAEL SILVERSTEIN - Assistant Director for Workplace
19 Safety and Health

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21 MR. JEFF GRIMM - Office Assistant Senior

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PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 TACOMA, WASHINGTON; MONDAY, JANUARY 10, 2000

2 2:00 P.M.

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6 THE ASSEMBLY OF THE PUBLIC HEARING, regarding Ergonomics,

7 convened, Mr. Selwyn

8 Walters, and

9 Mr. Michael Wood,

10 Presiding:

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12 * * * * *

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14 O_P_E_N_I_N_G__C_O_M_M_E_N_T_S

15 MR. WALTERS: Good afternoon, ladies and

16 gentlemen, once again. This begins the formal part of our

17 hearing this afternoon. My name is Selwyn Walters. I'm the

18 rules coordinator for the Department of Labor and

19 Industries, and with me is Michael Woods. He's the Senior

20 Program Manager for WISHA Technical and Policy Services.

21 And we represent Gary Moore, who is the Director of the

22 agency.

23 For the record, this hearing is being held in

24 Tacoma on January 10th, and it is two o'clock, and the

25 hearing is authorized, of course, by the Washington

1 Industrial Safety and Health Act, as well as by the
2 Administrative Procedures Code.

3 Can you hear me at the back? Can all of you hear
4 me clearly?

5 UNIDENTIFIED SPEAKERS: No.

6 MR. WALTERS: How is that?

7 UNIDENTIFIED SPEAKER: Better.

8 MR. WALTERS: If you have not already signed
9 up, please do so. You should sign up at the side table, and
10 it's important that you do so because this sheet will be
11 used to call you forward, and the law requires us to inform
12 you of the results of today's hearing.

13 For those of you who have written comments, please
14 submit then to either Jeff Grimm, Josh Swanson, or Jenny
15 Hays, at the side table. And we will accept your written
16 comments until 5:00 p.m. on February 14, 2000. You should
17 mail your comments to us at WISHA Services Division at
18 P.O. Box 44620, Olympia, Washington, and the zip is
19 98504.

20 You may also email your comments to us at
21 ergorule - that's one word, e-r-g-o-r-u-l-e - @lni.wa.gov.
22 Or you may fax your comments to us at area code
23 360-902-5529, and you must limit your fax comments to no
24 more than 10 pages.

25 The court reporter for today's hearing is Paula

PATRICE STARKOVICH REPORTING SERVICES (206) 323-0919

1 Somers of Starkovich Reporting, and transcripts may be
2 available. You should contact Starkovich Reporting directly
3 for copies of the transcript. The transcript will also be
4 available online, but not until three weeks from now. And
5 the home page address at which you can receive copies of
6 these transcripts are - and bear with me - it's
7 www.lni.wa.gov/wisha/ergo.

8 Notice of this hearing was published in the
9 Washington State Register on December 1st and December 15th
10 of 1999, and hearing notices were also sent to interested
11 parties. In accordance with the law, notices were also
12 published 30 or more days prior to this hearing in the
13 following newspapers: The Journal of Commerce, the
14 Spokesman Review, The Olympian, The Bellingham Herald, The
15 Columbian, the Yakima Herald Republic, and the Tacoma News
16 Tribune.

17 The hearing is being held to receive oral and
18 written testimony on the proposed rules. Any comments
19 received today, as well as written comments received, will
20 be presented to the Director.

21 In order to evaluate the potential economic impact
22 of the proposed rule on small business, the Department
23 completed a Small Business Economic Impact Statement in
24 accordance with the Regulatory Fairness Act. A copy of that
25 statement is either attached to your handout or your news,

1 or you may receive a full impact statement with the rule
2 itself.

3 For those of you who have given oral testimony at
4 previous hearings, you will be called upon after all the
5 testimony has been given, provided time permits. As you can
6 see, several people are here to testify, so oral
7 presentations will be limited to 10 minutes. But, please,
8 you don't have to take the entire 10 minutes.

9 If time permits, we will allow for additional
10 testimony to be given after everyone has had the opportunity
11 to speak. Please keep in mind that we have allowed for a
12 full month to receive written comments, the cutoff date
13 being February 14, 2000.

14 I'd like to share with you the rules for the
15 conduct of today's hearing. I'd like to remind you that
16 this is not an adversarial hearing; there will be no
17 cross-examination of the speakers; however, Michael and I
18 reserve the right to ask clarifying questions.

19 As stated above, when all speakers on the hearing
20 roster have had the opportunity to present their testimony,
21 we will provide an opportunity for anyone who so desires to
22 present additional testimony. In fairness to all parties, I
23 ask your cooperation by not applauding or verbally
24 expressing your reactions to testimony being presented.

25 If we observe these few rules, everyone will have

1 the opportunity to present their testimony and help the
2 director to consider all of the viewpoints in making the
3 final decision.

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O R A L T E S T I M O N Y

7 In an effort to expedite things, we will call you
8 in panels of three. So the first panel will comprise Nate
9 Drake, Becky Lamont, and Barbara Christensen. And after
10 those three have come up, Jerry Bonagofsky, Margaret Daly,
11 and Curt Anderson should be prepared to come and testify.

12 So, at this time, we will take testimony from Nate
13 Drake, Becky Lamont, and Barbara Christensen.

14 I'd like to remind you all to restate your names,
15 spelling, of course, your first and last names for the court
16 reporter.

17 Mr. Drake?

18 MR. DRAKE: My name is Nathan R. Drake,
19 N-a-t-h-a-n R. Drake, D-r-a-k-e. I am a field
20 representative for the Pacific Northwest Regional Council of
21 Carpenters. I am here to support the ergonomic rule.

22 I could give a lot of statistics to support this
23 rule, but I think this rule should be supported because it's
24 the right thing to do. A healthy employee is a productive
25 employee. So let's be productive. Let's put this rule in

1 the WISHA standards. Let's find out what the risk factors
2 are in the workplace so musculoskeletal disorders may be
3 prevented and give everyone a better way of life.

4 Thank you.

5 MR. WALTERS: Thank you.

6 Ms. Lamont?

7 MS. LAMONT: I have some concerns. One is
8 leaving a determination of WMSD hazards to employers, and
9 I --

10 MR. WALTERS: I'm sorry. Could you state your
11 name and spell it?

12 MS. LAMONT: I'm sorry. Becky Lamont,
13 B-e-c-k-y L-a-m-o-n-t, and I'm a member of WFSE Local 53,
14 Washington Federation of State Employees.

15 I'm concerned about leaving a determination of
16 hazards for WMSDs to employers, and I'm concerned about
17 whether that will allow employers to ignore and deny
18 ergonomic dangers. I think that all employees should be
19 allowed to file claims wherever they are employed. And I'm
20 also concerned about the feasibility steps to reduce
21 hazards.

22 You answered some of those questions in the prior
23 question-and-answer period. And I would like to know if L&I
24 will be able to participate in determining whether steps are
25 feasible, and it appears you will be able to. I like that,

1 because you're the experts in our state on ergonomic
2 disorders.

3 And I have another concern about, I think
4 something that needs to be a part of the rule or a part of
5 the general rule is to allow the employees in unions to
6 request a work site review without the employer agreeing.
7 It appeared from the documentation that the employer would
8 need to agree.

9 And I would like to see heightened employer
10 penalties for underreporting injuries and trying to dissuade
11 employees from reporting an injury. This would be
12 applicable to all state, county, and municipal employers, in
13 addition to private industry. And my personal experience is
14 working with DSHS and having managers tell employees they
15 risk termination for reporting injuries.

16 MR. WALTERS: Thank you.

17 Ms. Christensen? But before you begin, Mr. Wood.

18 MR. WOOD: For those of you who come forward,
19 as well as for those of you who are here now, I've been
20 advised that the sound system will work fine as long as you
21 can get it close to your mouth. That may mean you want to
22 pull it up alongside your notes rather than trying to read
23 it across your notes.

24 I apologize for that, and I hope you'll bear with
25 us. For those of you at the table, remember, we're trying

1 to make sure the folks behind you can hear as well as us.

2 So thank you for your patience.

3 MS. CHRISTENSEN: My name is Barbara
4 Christensen, C-h-r-i-s-t-e-n-s-e-n, Forks Community
5 Hospital, F-o-r-k-s.

6 I believe the Department of Labor and Industries
7 should have looked at causes of MSDS injuries and not just
8 the types of injuries, such as carpal tunnel and back
9 injuries. Many MSDS injuries occur as a result of
10 employees' action, or lack of actions, such as not using
11 proper body mechanics or not wearing protective equipment
12 that has been provided.

13 The current proposed ergonomic rule appears to be
14 too complicated and costly for employers, and I know when I
15 asked a question on the cost that referred me to part of the
16 information that was handed out, but it doesn't sound like
17 the actual costs have been completed yet. And less
18 restrictions are needed and more flexibility in both risk
19 assessment and corrective actions in the work stations. I
20 think that would be a lot more helpful.

21 MR. WALTERS: Thank you. Thank you all for
22 coming.

23 Jerry Bonagofsky, Margaret Daly, and Curt
24 Anderson.

25 Mr. Bonagofsky?

1 MR. BONAGOFSKY: Thank you. My name is Jerry,
2 J-e-r-r-y, Bonagofsky, B-o-n-a-g-o-f-s-k-y; Safety Director
3 for Washington Contract Loggers Association. Washington
4 Contract Loggers Association is a trade organization
5 representing approximately 650 logging companies in the
6 state of Washington and several other sawmills also in the
7 state of Washington.

8 Washington Contract Loggers Association feels that
9 the Department of Labor and Industries should not proceed
10 with the adoption of ergonomic rules until mandated by OSHA.
11 We realize that OSHA is in the middle of their own
12 rule-making process of ergonomic rules, so we would insist
13 that the department wait until we see the outcome of that
14 rule-making process.

15 The WCLA also feels that the department has
16 underestimated the economic impact to business. The
17 Economic Impact Statement for Small Business has indicated
18 that the average cost for small business would be
19 approximately \$31.47 per employee per year. Our average
20 employer in our association has about 10 employees, so that
21 would tell me that the department estimates that their cost
22 would be roughly \$320 a year.

23 Well, if one of our employers had to hire a
24 qualified ergonomist to come out and evaluate his work site,
25 \$320 wouldn't -- would barely get him out of his office, let

1 alone up in the woods to evaluate the site. Implementing
2 the proposed rules would also be very costly without any
3 guarantee of reducing claims.

4 Furthermore, we also support the Association of
5 Washington Business' position on the proposed ergonomic
6 rules. And, basically, their top message involved
7 conducting pilot programs to measure each of the rule's
8 requirements for effectiveness in injury and hazard
9 reduction, implementation costs, and ease of compliance
10 before implementation.

11 Provide a money-back guarantee: If the department
12 is unwilling to conduct pilot programs to assure the
13 effectiveness of its rules, then the department should agree
14 to reimburse employers for the cost of implementing
15 rule-related ergonomic initiatives that fail to reduce
16 injuries.

17 Provide technical assistance: The department
18 would need to delay implementation of any proposed rules
19 until an adequate level of education, technical assistance,
20 and outreach is available, not just work in progress.

21 You need to coordinate with other
22 ergonomic-related programs prior to the final rule adoption
23 or implementation, coordinate rule-making efforts with
24 Federal OSHA and existing enforcement programs, such as the
25 Accident Prevention Program, management responsibilities,

1 and personal protective equipment, and others, as well;
2 establish clear compliance goals and requirements; provide
3 real safe harbor protections for employers who act in good
4 faith; clarify worker's compensation issues.

5 The department should clarify in writing that the
6 mere existence of a caution zone job or WMSD hazard cannot
7 be used to support a finding of job-related injury for the
8 purpose of a worker's compensation claim.

9 Don't second-guess the employer. If the employer
10 makes a good-faith effort to identify, prioritize, and
11 correct hazards, the department should not substitute its
12 judgment for that of the employer, unless the department can
13 show to a substantial certainty that this proposed
14 corrective action will result in greater reduction of
15 injuries.

16 Restore employer flexibility: The rule goes too
17 far by giving extraordinary power to employees to select
18 measures to reduce hazard exposure. The employee input is
19 valuable, but it should not supplant the employer's
20 judgment.

21 Ensure that the use of recovery cycles, health
22 club memberships, massages, et cetera, are options available
23 to the employer rather than mandates.

24 Thank you.

25 MR. WALTERS: Ms. Daly?

1 MS. DALY: My name is Margaret Daly, D-a-l-y.
2 And evidently, I'm the only little Indian amongst the
3 chiefs, which is fine.

4 I'm one of the walking wounded. It took me one year
5 and a half after one injury on the left hand to finally get
6 carpal tunnel, and to put it bluntly, folks, it was the
7 first night I slept on my right side after surgery without
8 pain.

9 And for over the years being on the other side of
10 the fence as an employer or manager, somewhere down the
11 line, we're not robots; we're not to be intimidated, because
12 if you catch it at the first go-round, it won't come to
13 this. And I will have the second hand done in approximately
14 two months.

15 It's unbelievable. Like I said I've been on the
16 other side of the fence as an employer, as a manager. If
17 you treat your employees right, No. 1, you get more
18 productivity; No. 2, you have better morale; No. 3, you
19 won't have this problem. And I worked through the whole
20 time without any time off until the surgery, eight hours a
21 day, 40 hours a week, never missed a day.

22 And it's unreal that corporate greed has taken to
23 this extent. You get intimidated if you're sick; you can't
24 work; you drop things. Why? It's crazy. And I will be
25 back on the other side of the fence; and I promise you, my

1 employees I will treat better than you do.

2 MR. WALTERS: I need to remind you to address
3 your comments to me.

4 MS. DALY: I know. I know. It's just -- I
5 mean it's to the point, the first time, and I mean when I
6 called my physician, okay, because the pain had gotten so
7 bad on the 18th of March, the phone got hung up on me.
8 You cannot do this. You have to go through a nurse
9 practitioner; you will go through physical therapy. The
10 first statement from the physical therapist was extreme
11 carpal tunnel, soft tissue damage, bilateral, because I'm
12 ambidextrous. When this hurts too bad, I use this side.

13 I fought this for nine months. I was sent to A
14 doctor who at L&I I think you're very well aware of; he
15 usually signs people off. He took one look at me, tested
16 me, and couldn't believe that I had to wait this long. And
17 I worked for a self-insured employer, so the party isn't
18 over yet. The only thing is, they met their match. I
19 won't -- I can fight them and not have -- They're not big
20 enough for me to be scared. They've tried everything in the
21 book.

22 An employee shouldn't have to come where they have
23 to have a lawyer, come to you guys and say, Hey, I can't get
24 the help I need. It's a quality of life, and I'm sorry. You
25 shouldn't have to give it up. Why should I be crippled for

1 the remainder of my life? Just for corporate greed? Sorry
2 about that. No.

3 I'm done.

4 MR. WALTERS: Thank you.

5 Mr. Anderson?

6 MR. ANDERSON: I'm Curt Anderson, Curtis M.
7 Anderson, C-u-r-t-i-s M, like in M, A-n-d-e-r-s-o-n. and
8 I'm president of Air Systems Engineering, Inc. We are a
9 corporation. I don't think we have corporate greed. I'm
10 sorry some do.

11 I'm a licensed professional engineer. I've been
12 in the HVAC engineering and construction business 35 years;
13 past president of Air Conditioning Contractors of America,
14 and we've worked on several technical committees over a
15 period of 10 years on their executive board. And we talked
16 about safety, and we talked about a lot of things with
17 safety being among them, because it's very, very important
18 in our industry.

19 We work both in construction and in service. On
20 a given week, we have employees at probably in the
21 neighborhood of 200 locations a year -- a week, I'm sorry;
22 that's both service and construction together. Primarily,
23 we work in heat and ventilating and air conditioning, and we
24 work a lot as a subcontractor, and our task schedule is
25 dictated mostly by others.

1 We believe that our employees are our most
2 valuable resource, and so we do train, and standards for
3 safety are No. 1, our employees' physical welfare, because
4 to knowingly allow unsafe practices violates a moral
5 personal code and ethical code that I believe in. Two,
6 prevent disruption, work is most effectively executed when a
7 job can be begun and worked to completion by the same
8 individual.

9 Third is morale of employees; a happy work force
10 makes a better life for families, for fellow workers, and
11 others with whom we interface. Fourth is the worker's comp
12 rates. The rates are high, and to make them higher adds to
13 costs for us and our customers and the user of our product.
14 And the fifth is potential citations if we were to engage in
15 unsafe practices.

16 We're a medium-sized company, approximately 45
17 people. The workplaces that we go to, the construction
18 sites first, they change every day. A hazard that's here
19 today is gone tomorrow; a hazard that's not here today may
20 be there tomorrow. An attitude, a safety attitude, is the
21 best incentive for preventing accidents in this type of
22 workplace.

23 An area that's a level work surface one day may
24 have steps or may have openings and may have hazards the
25 following day, and we make all efforts to maintain a clear

1 unobstructed workplace. We do work with as many as a dozen,
2 maybe 15, 20 subcontractors on the same site, and we try to
3 watch out for unsafe conditions that may have been put by
4 others and certainly that are put up that are caused by our
5 own people. But we prefer to have our employees develop an
6 attitude of safety, be conscious of what needs to happen,
7 what they need to do to be safe.

8 Still, if we were to put a ventilation system in a
9 building like this, a building like the Tacoma Dome, a
10 building like a large hotel, the work functions have to be
11 performed from ladders or platforms, sometimes from floor
12 surfaces, sometimes through small access areas, openings,
13 and in just about every physical condition, physical
14 position imaginable. It's impossible to anticipate how each
15 work activity will be performed.

16 Our work schedule is usually dictated by others,
17 and changes regularly occur. We may not know until today
18 who is going to go and do a particular job tomorrow, just
19 due to the nature of our business.

20 On the service side, we send people out to repair,
21 replace and repair equipment, and we don't know exactly what
22 that site looks like. We have to train our people to be
23 aware of the conditions. And I checked, and in our 26 years
24 in our current business, to my knowledge, we have never had
25 an injury due to this type of activity.

1 So I submit that No. 1, the construction industry
2 ought to be exempted from the rule, simply because of its
3 nature; rather to develop materials and train -- to
4 condition the work people to keep in good physical condition
5 and make that appropriate for their responsibilities, and
6 the goal in giving them these and having them work on these
7 would be to develop that safety attitude so that they don't
8 have something sprung on them that they're not prepared for.
9 Safety ought to be an attitude of the employee as well as
10 the directed practice.

11 This regulation will be the most onerous of any, I
12 believe, that the agency has ever enforced, or ever put out.
13 The regulations continue to multiply, and they get more
14 complex all the time. I know they're costly to write; I
15 know they're costly to enforce; they're costly if not
16 followed; they're costly if they're followed.

17 These are beyond practical in our industry. Costs
18 have to be passed on to the consumer, whether or not they
19 add value to the product; the costs have to be added to this
20 consumer and to our customer.

21 How do you know if a person comes in whether the
22 accident was from work or whether it was skiing on a
23 weekend, working on a home project, motorcycle riding,
24 bungee jumping, whatever there is? On occasion, an employee
25 will misrepresent that, and the burden of proof is on the

1 owners, and it's darn difficult to prove that it was not the
2 workplace, especially when there's no way for the employer
3 to know what the outside activities are.

4 Your economic study doesn't come close to what it
5 would cost for us to put this into practice; maybe a factor
6 of 10, maybe more. The economic study is a farce that
7 you've got. OSHA is working on standards; the National
8 Academy of Sciences are working on a study to determine how
9 serious the problem really is; and the state of Washington
10 is spending money, tax money, to do this in parallel with
11 these. Why in the world -- Why must the state of Washington
12 reinvent the wheel?

13 I know we can say that, well, one size doesn't fit
14 all; what's federal may not fit us; but one size does not
15 fit all within our state. I respectfully feel that you are
16 here to make a safe workplace and to do what you feel is
17 best. I feel like that you have determined that these
18 regulations are going out practically the way they are, and
19 I don't think that you plan to make any changes.

20 When we had preliminary hearings a couple of years
21 ago in 1988, there was much, much discussion that was
22 contrary to the regulations, and the newspaper wrote it up
23 like it was, you know, it's a pretty good idea, and I don't
24 know who writes the reports. But No. 1, I want, and I work
25 for, and our company works for safety for our employees.

1 We have a darn good safety record, and we will
2 improve that any way we can. But if we spend money doing
3 this stuff, that in my opinion has no value for us, that
4 means that we probably have to take it away from something
5 where we could help to provide better safety activities
6 elsewhere.

7 Thank you for your time.

8 MR. WALTERS: Thank you.

9 Steve Davis, Kate Stewart, and Blaine Sherfinski.
10 And after that panel, Finley Young, Kim Cookson, and Robert
11 F. Keys should be prepared to testify.

12 Mr. Davis?

13 MR. DAVIS: Good afternoon. My name is Steve
14 Davis. I'm an ergonomist consultant for Stewart &
15 Associates, which is an occupational ergonomics firm here in
16 Seattle, Washington. My academic training is in industrial
17 engineering and physiology, and I've worked as an ergonomist
18 for over seven years in Washington state.

19 In this time, I've worked with many companies who
20 have experienced significant work-related musculoskeletal
21 disorders, as well as those who have proactively worked to
22 prevent them. We work with a wide range of public and
23 private businesses to help develop and implement integrated
24 ergonomics processes and work proactively in private
25 businesses to help develop and implement integrated

1 ergonomics processes and work directly with all levels of
2 management and production workers.

3 As a result of this work, we have seen all types
4 of accumulative occupational injuries. Through this work,
5 we truly have a sense of the pain, frustration, and
6 debilitation that these injuries cause for countless workers
7 and the lasting effects of these injuries on both their work
8 and their home lives.

9 We also have a keen sense of the employer's
10 perspective in maintaining a productive yet safe work
11 environment in the new millennium's competitive workplace.
12 I speak in strong support of the proposed ergonomics rule,
13 as I truly believe that we need an ergonomics rule to
14 improve the safety and health of every workplace in
15 Washington state.

16 Although many companies are already doing great
17 things in ergonomics within their workplaces and protecting
18 their workers and their profits, many are not. It is not
19 only good business, but it is morally right to protect every
20 company's greatest asset, their workers.

21 In these public hearings, much is being said about
22 the employees' need for the highest level of protection in
23 today's demanding workplace, using sound ergonomic
24 principles. Ergonomics needs to become an integral part of
25 every occupational safety and health program in every

1 organization to effectively mitigate work-related
2 musculoskeletal injuries and create health and safety equity
3 among all workplaces.

4 Through our work at Stewart & Associates, we
5 consistently see some companies proactively addressing
6 workplace ergonomic risk factors while others hesitantly
7 react and deny their workplace injuries. We need greater
8 accountability and increased workplace safety and health
9 equity through ergonomics.

10 Ergonomics does make good business sense, if
11 implemented for the right reasons. These include
12 proactively protecting workers while improving the
13 productivity and efficiency of the workplace. I have seen
14 firsthand how ergonomics can help to quickly and
15 successfully intervene in musculoskeletal injuries and
16 return injured workers back to healthy, productive
17 employment.

18 This often leaves everyone asking themselves, why
19 didn't we just make these improvements before an injury
20 resulted instead of waiting until afterwards? The
21 fundamental difference is proactive ergonomics versus
22 reactive ergonomics or proactive safety and health versus
23 reactive safety and health. The proposed ergonomics rule is
24 a prevention rule, which requires much-needed proactive
25 involvement by employers.

1 The last six years I have directed an ergonomics
2 process at Seattle City Light through the safety and health
3 division. We have worked to integrate a comprehensive
4 process through training and education, effective job
5 analysis, and solution implementation. We have worked to
6 create a channel for effective injury prevention through the
7 application of ergonomics.

8 We still have a long way to go, but have made
9 significant inroads in reducing work-related musculoskeletal
10 disorders. Ergonomics becomes a powerful tool, particularly
11 when coupled with other safety and health efforts within the
12 workplace.

13 At Seattle City Light, we have seen severity rates
14 for all injuries, including work-related musculoskeletal
15 disorders reduced to a 10-year low. Beginning in 1997, we
16 saw a reversal of the previous rising trend of
17 ergonomic-related injuries, resulting in a \$200,000 savings,
18 or cost avoidance, from previous years. Again this year we
19 have seen savings of almost \$300,000, compared to 1998 costs
20 for accumulative ergonomic-related injuries.

21 We have also seen up to a 50 percent reduction in
22 injury frequency rates, in particular, areas where we have
23 focused efforts in ergonomics training, job analysis, and
24 the development of ergonomics teams. There truly are
25 tremendous benefits when using ergonomics to improve the

1 safety and health of the workplace. This does not include
2 the vast benefits in workplace productivity and employee
3 morale.

4 Through one office ergonomics study, we measured
5 the effects among Seattle City Light employees when
6 intervening in work-related musculoskeletal symptoms, using
7 effective ergonomic controls. This study measured the
8 effectiveness of ergonomic controls when employees presented
9 with significant symptoms.

10 Using a scale between 1 and 10, with 10 indicating
11 severe pain and 1 indicating minimal discomfort, the success
12 for ergonomic improvements were determined by symptomatic
13 employees. At the outset, all employees studied presented
14 with significant symptoms ranging in severity between 7 and
15 10.

16 After an ergonomic evaluation was performed and
17 ergonomic improvements made, the study revealed that 92
18 percent of symptomatic employees reported general
19 improvement in symptoms, and 60 percent of employees
20 reported significant improvement in symptoms, indicating
21 that their symptoms had reduced to a level between 0 and 3.

22 While several of their ergonomic improvements
23 required workstation modifications, many of the improvements
24 included simply teaching employees how to take advantage of
25 their existing adjustable chairs and equipment. This was

1 accomplished through simple training and education. I am a
2 firm believer that using ergonomics to improve the safety
3 and the health of the workplace does not have to be
4 expensive.

5 Oftentimes, the cost of implementation of
6 successful ergonomic improvements does not have to be a
7 major additional financial burden. At City Light, as well
8 as other companies, we have concentrated on spending
9 existing facilities and tool and equipment budgets with
10 ergonomic criteria in mind. The goal is to utilize existing
11 budgets for ergonomic improvements by making wiser purchases
12 using ergonomic criteria as the measuring stick.

13 I believe that the proposed ergonomics rule is
14 well-written and sound and should be fully implemented.
15 However, while I believe the proposed time lines and
16 evaluation costs are fairly accurate for many work
17 environments, the physical demands of utility and
18 construction work create interesting challenges.

19 There are many extraneous variables, including
20 workplace culture and a consistently changing work
21 environment that make utility/construction work more
22 difficult to deal with when evaluating caution zone jobs and
23 ergonomic risk factors. These workplaces may include a
24 building under construction, working high up on a utility
25 pole, or in an underground confined space.

1 These jobs will always be difficult and physically
2 demanding. However, they do not need to be high-risk jobs
3 relative to ergonomic-related injuries. Having said this,
4 these jobs can often take a significant amount of time to
5 evaluate and develop and implement corrective ergonomic
6 improvements.

7 The time and cost estimations for training and job
8 analysis included in the proposed rule may be too
9 conservative in these areas. However, the time line for
10 complete implementation is doable.

11 Thank you for the opportunity to present this
12 testimony. I believe the eventual ergonomics rule in
13 whatever final form it takes will help to significantly
14 reduce work-related musculoskeletal disorders within
15 Washington state.

16 The implementation of this rule will take
17 significant effort by all employers, but will be rewarding
18 as we begin to eliminate debilitating musculoskeletal
19 injuries and improve the safety of our workplaces.

20 MR. WALTERS: Thank you.

21 MR. WOOD: Just hold on for a minute.

22 Mr. Davis, you referenced a study at Seattle City Light?

23 MR. DAVIS: Right.

24 MR. WOOD: Do you have copies of that
25 available, or can you make them available for the record?

1 MR. DAVIS: I can make them available, yes.

2 MR. WOOD: We would appreciate that. Thank
3 you.

4 MR. DAVIS: Sure.

5 MR. WALTERS: Ms. Stewart?

6 MS. STEWART: Hi. I'm Kate Stewart,
7 S-t-e-w-a-r-t. I'm a board certified professional
8 ergonomist, and I work with Stewart & Associates, and I'm
9 also an affiliate faculty member at the University of
10 Washington in the School of Community Medicine and Public
11 Health.

12 First of all, I want to positively acknowledge the
13 efforts that have been created here to -- the efforts that
14 have been done to create a much-needed ergonomic rule for
15 the state of Washington. I believe it's long overdue, and
16 will positively impact workers and employers in Washington
17 state. I commend your efforts.

18 I am in agreement with most aspects of the
19 proposed rule. However, I have concerns regarding the
20 trigger values used in the cursory caution zone evaluation.
21 My concerns are centered around the levels of several of the
22 components. My belief is that they are not rigorous enough
23 to fit into the category of caution only.

24 Some examples are: lifting objects weighing more
25 than 75 pounds once per workday. This violates the

1 widely-accepted and scientifically-based values provided by
2 the NIOSH, National Institute of Occupational Safety and
3 Health lifting equation.

4 Under the best of circumstances, for example, one
5 lift per day, minimal horizontal distance, no asymmetry,
6 good coupling, unrestricted movement, et cetera, the maximum
7 recommended lift for 99 percent of men and 75 percent of
8 women is 51 pounds.

9 Another example along these same lines as part of
10 the cursory evaluation, the caution zone valuation, is 55
11 pounds, 55 or more pounds more than 10 times per workday.
12 Again, the same rule would apply. When you've put these
13 dimensions into the NIOSH lifting equation, this comes up
14 with a lifting index of 1.5, which is not acceptable to
15 99 percent of men or 75 percent of women in the work force.

16 Another issue is that sustained muscular force is
17 not addressed. It's a physiological fact that muscle
18 strength declines rapidly after 8 to 10 seconds of
19 full-force contraction. The biochemistry of the muscles is
20 something that's science. We know this. With, for example,
21 50 percent force, 20 seconds or so will be the maximum
22 amount of sustained time that the muscles can handle that.

23 You can consider this in any kind of holding or
24 carrying task, and these times, the amount of actual time
25 that the muscles can function, will decrease when combined

1 with awkward postures, and those two variables are not
2 indicated in the caution zone evaluation.

3 Wrist flexion and extension allowable to 30
4 degrees may be too much, when you look at the physiology of
5 the wrist and the biomechanics of the wrist, when you get
6 into approximately 90 degrees of flexion, 60 percent of
7 wrist strength is gone. So we can assume that the muscles
8 and tendons may not be able to sustain a two-pound pinch
9 force on a daily basis for two hours with 30 degrees of
10 flexion or extension.

11 My concern, illustrated by the above examples, is
12 twofold: First, that these values aren't strong enough to
13 protect the worker; and secondly, that employers will look
14 to these values as truth. In other words, employers will
15 think, Oh, if I have someone lifting 75 pounds once per day,
16 then I've got it made; I've really complied -- or not
17 complied, but I've made the best effort to protect the
18 workers, when, in fact, we know that those triggers are too
19 high.

20 They will believe that if they are within these
21 parameters, their injuries and subsequent costs may decline,
22 disappear, and cease to exist. This is more than likely not
23 true because these values just aren't enough.

24 Thanks for the opportunity to testify. I
25 appreciate it.

1 MR. WALTERS: Thank you.

2 Mr. Sherfinski?

3 MR. SHERFINSKI: Good job on that. My name is
4 Blaine, B-l-a-i-n-e, Sherfinski, that's S like in Sam
5 h-e-r-f-i-n-s-k-i.

6 I'm a union representative for the United Food and
7 Commercial Workers Union Local 367, which represents
8 approximately 8,000 employees in the retail trades in
9 several counties here in Western Washington. I've had the
10 good fortune of working for this local and another local
11 with UFCW for 22 years. During that period of time, I've
12 seen literally hundreds of our members injured in the
13 workplace, due to the lack of ergonomic considerations in
14 the design of the workplace.

15 Sadly, it appears from my experience that industry
16 as a whole is minimally concerned with regard to the
17 ergonomics and the safety of the employees in the designs
18 and much more concerned with the appearance to the public,
19 and with the speed with which the employees can either
20 process the customer through the check stand, slice the deli
21 meats or cheeses in the deli, and so forth; very little
22 concern with regard to adjustable table heights, adjustable
23 check stand heights, and so forth.

24 Most recently, I sent a letter to an employer in
25 the Aberdeen area regarding many complaints I received from

1 checkers in that store concerning their check stand design.
2 After three months, I finally got a response from the
3 employer, and that response was basically to brush me off,
4 saying that they had designed their check stands
5 incorporating some concerns and ideas expressed in the 1992
6 Ohio State University Study.

7 Sadly, and I think correctly put, if my members
8 are experiencing pain, there's a flaw in the design of those
9 check stands. By adopting the rules, as I understand them -
10 and I certainly don't understand them to the degree of the
11 other two at this table - it appears to me that it takes
12 into account one very important factor, and that is asking
13 the workers what is good, what is bad, and so forth, with
14 regard to the workplace design.

15 I urge the department to adopt this rule for the
16 safety of the health of not only my members, but all workers
17 in the state of Washington. And I applaud the agency for
18 taking the lead and not waiting for OSHA to develop a
19 standard.

20 Thank you.

21 MR. WALTERS: Thank you.

22 Finley Young, Kim Cookson, Robert Keys.

23 MR. YOUNG: My name is Finley Young,
24 F-i-n-l-e-y, and the last name is Y-o-u-n-g. I'm the
25 Grievance Director of United Food and Commercial Workers

1 Local No. 367, from which Mr. Sherfinski immediately before
2 me also comes, so obviously, I'm not going to repeat
3 everything he said.

4 I just wanted to state that we have -- Our union
5 has tracked the development of this rule to date. I want to
6 thank and compliment the department for its careful
7 consideration and its bringing in perspectives both from
8 business and labor and workers in the rule that has been
9 developed so far.

10 I, too, have in 10 years with our local, have
11 personally witnessed literally hundreds of repetitive stress
12 type injuries in our workers, and I have seen the pain and
13 the frustration that they have experienced. And in light of
14 that, I can only say that I hope that the rule is
15 implemented just as soon as possible in order to alleviate
16 these problems.

17 Thank you.

18 MR. WALTERS: Thank you.

19 Ms. Cookson?

20 MS. COOKSON: My name is Kim Cookson,
21 C-o-o-k-s-o-n. I'm a safety consultant for third party
22 administrator of worker's compensation claims. I work with
23 employers to prevent employee injuries. I have been doing
24 this for 12 years.

25 I embrace processes and methodologies which lessen

1 employee risk to injury. Unfortunately, this proposed
2 ergonomic standard has some flaws which must be ironed out
3 prior to becoming an enforceable standard. This includes
4 the statistics L&I is basing their need for ergonomic
5 legislation.

6 I work with numerous employers, and none has
7 statistics on ergonomic illnesses similar to those L&I is
8 basing their need for an ergonomic standard on. The
9 statistics being used to propagandize this standard are just
10 just not correct. The data L&I used to gather their
11 statistics should be made available to the public so an
12 independent study can be done.

13 And there should be access to records to verify
14 the proper coding of the claims. This is critically
15 important because of the improvement L&I will find 10 years
16 after this standard has been in place. I am positive L&I
17 will be able to show an amazing decrease in ergonomic claims
18 simply because of the proper study.

19 It is absurd for anyone to believe one-third of
20 all claims and one-half of all claim costs are from
21 ergonomic illnesses. There are simply too many other causes
22 for injuries: chemical exposures, slips, trips, and falls,
23 vehicle accidents, running into or contact with objects, eye
24 injuries, hearing loss, et cetera.

25 All that said, I am not here to say ergonomic

1 injuries aren't real. They are, and some can be prevented.
2 But I am here to beg the department to, one, make this
3 standard understandable to the common person; two, provide
4 tools to perform the analysis which the standard requires;
5 and, three, ask for clear direction as to what is required.
6 I am asking the department not to leave interpretation of
7 the standard up to the Board of Industrial Insurance
8 Appeals.

9 An ergonomic rule already in place is the hearing
10 conservation standard. The proposed ergonomic standard has
11 a lot in common with the hearing conservation standard as
12 far as the basic outline of employer requirements. Both
13 require the employer to analyze the workplace for exposure.
14 If the exposure is too high, something must be done to
15 lessen the overexposure. In theory, this works well. The
16 major flaw is the ability to measure the exposure for
17 repetitive motion.

18 For the hearing conservation standard, employers
19 had tools available to them that may not be cheap but at
20 least make the measurement of overexposure possible. All in
21 all, the process of determining overexposure to noise is not
22 difficult because of sound level meters and noise
23 decimeters.

24 This proposed ergonomic standard requires
25 employers to perform an evaluation of each and every job for

1 repetitive motion overexposure. But there are no tools like
2 noise decimeters or sound level meters to assist in this
3 process. The proposed standard, as currently written,
4 requires employers to evaluate each job position with a
5 stopwatch and add up the amount of time an employee is bent
6 over, kneeling, reaching overhead, et cetera. How is an
7 employer no know if a job position is a caution zone job, or
8 worse, a WMSD hazard?

9 The department's Small Business Impact Study
10 assumes an employer can analyze a job in five minutes to
11 determine if it's a caution zone job. This is totally
12 unreasonable. Without tools, employers' only option to make
13 this determination is a stopwatch.

14 Someone has to stop and start that stopwatch to
15 determine if its typical work, and that's anything
16 foreseeable - according to the standard - to determine if
17 typical work has an employee with hands over their heads,
18 elbows over their shoulders, their neck, wrist, or back bent
19 more than 30 degrees, or if the employee squats or kneels
20 for more than two hours per day.

21 How do you measure if a controller for a small
22 business, who is also the office manager, information
23 systems manager, and human resources manager, bends his or
24 her neck more than 30 degrees while writing at a desk or
25 bends his or her wrists more than 30 degrees while using a

1 computer? How are these measurements to be taken and added
2 up to see in the employee is in a caution zone job? Five
3 minutes is a joke.

4 What compliance officer could do that in five
5 minutes? And if the compliance officer has experience and
6 knowledge, employers haven't any. Even myself as an
7 experienced safety professional, I don't have a clue how to
8 make these measurements to determine if an employee is in a
9 caution zone job.

10 Another example, a school bus driver. How is an
11 employer supposed to know if a driver grips the wheel with
12 more than six pounds of force? And how does the employer
13 add the time to see if drivers have done this for more than
14 two hours in a day and therefore are in a caution zone job?

15 This job analysis is beyond cumbersome. It is
16 downright impossible. The tools to performing the
17 evaluation simply do not exist. One consultant would have
18 to sit with one employee for an entire week, making the
19 measurements and adding up the time of overexposure to
20 assure the job position is or is not typically, meaning
21 regular or foreseeable, a caution zone job or WSMD hazard.

22 Testing one day alone may not include all the
23 necessary exposure. But just like testing for noise
24 exposure, sampling for repetitive motion exposure will
25 require sampling for several employees doing the same job or

1 one employee over several days. Clearly, developing the
2 data the standard requires is functionally impossible.

3 And, the department's Small Business Impact Study
4 only can be described as reckless. Assuming employers could
5 obtain the data to determine if a caution zone job exists,
6 it is clear that, like the hearing conservation standard,
7 employees' overexposure must be eliminated. The application
8 of hearing protection devices are a quick and affordable
9 method for complying with the hearing conservation program.

10 However, the ergonomic proposed standard indicates
11 the ergonomic exposure must be eliminated where feasible.
12 The word "feasible" is not defined within the standard.

13 My investigation shows that feasibility, according
14 to OSHA - and I have a source here, "Compliance Magazine,"
15 article on benzene, October 1999 - feasibility according to
16 OSHA, quote, "was solely related to whether a thing was
17 technically capable of being done, and the cost of adopting
18 the required precautions was a factor in the analysis only
19 to the extent that the standard would not impair the
20 viability of whole industries," unquote.

21 This clearly means that L&I compliance officers
22 could cite an employer for repetitive motion activity,
23 regardless of whether or not an injury has ever been
24 incurred, if the activity can be altered. And, of course,
25 with enough money, all activity can have repetitive motion

1 activity eliminated.

2 I beg the department not to let feasibility be
3 defined by compliance officers or the Board of Industrial
4 Insurance Appeals. As the author of this standard, you have
5 the duty to write it as clearly as possible. As currently
6 written, employers can only assume you mean for any
7 alteration to a job which can be done to be done when a WMSD
8 hazard exists if you do not more clearly define feasibility.
9 Even the Americans with Disabilities Act isn't this broad.
10 The ADA only requires employers to make reasonable
11 accommodations.

12 The department has also asked for comments on the
13 department's analysis of the Small Business Impact
14 Statement. In addition to the poor assumption of it taking
15 five minutes to determine if a job is a caution zone job, I
16 question the department's practice of spreading the cost of
17 complying with the standard over 10 years.

18 Employees have no more than six years to comply,
19 and all those costs must be incurred now. It makes no sense
20 to spread the cost over 10 years. This makes the costs
21 appear much, much lower than they actually are, especially
22 when employers come up with the money to comply now.

23 I strongly urge the department to table the
24 standard until, one, it can be written so that a lay person
25 can easily understand all requirements; two, the department

1 can know, not think or believe, like Mr. Silverstein stated
2 in his opening remarks today, but know absolutely the
3 benefits and costs of compliance, and this can only be done
4 with the pilot program; and, three, the standard is written
5 to prevent multiple interpretations by compliance officers,
6 assist attorney generals, and the Board of Industrial
7 Insurance appeals.

8 Thank you.

9 MR. WALTERS: Thank you.

10 Mr. Keys?

11 MR. KEYS: Good afternoon. I am Bob Keys.
12 I'm with GTE, and I am the Regional Safety Specialist with
13 the company.

14 May I begin by stating that we agreed with the
15 aspect of an ergonomic program, even go as far as a
16 regulated program to protect workers from injuries. In
17 fact, as a company, we have invested millions of dollars in
18 a corporate life program. We at GTE employ a CSP, CPE, or
19 corporate ergonomist, to direct our corporate life program,
20 and when we have 100,000-plus employees worldwide.

21 We have 32 safety professionals who are subject
22 matter experts, and ergonomics as well, throughout the
23 company, who work directly with our employees. We have, as
24 I mentioned, before we have spent millions of dollars in our
25 program. We have ergonomic workstations for our inside

1 employees. We have tools that are ergonomically friendly
2 for our outside craft employees.

3 We train our employees regularly. We train site
4 experts and rotate those every few years to be site experts
5 for large centers where we employ several hundreds of
6 people. We train our coaches, our managers, and
7 supervisors. We have safety meetings that directly focus on
8 ergonomics.

9 We have monthly observation feedback interactions
10 with our employees. And when employees demonstrate 100
11 percent safe work performance in certain areas, we provide
12 incentive and recognition to them for that. And when
13 there's opportunity for a coach to intervene on behalf of
14 the employee to better assist them in their ergonomics, then
15 we do that, as well. We have job safety analysis programs
16 for trouble areas, and when areas are found, we act
17 aggressively to fix those areas.

18 In 1994, when we began our ergonomics program at
19 the grassroots stage, we had spent \$9 million in ergonomic
20 comp claims. In 1996, we had dropped that to 6 million. And
21 in the last few years, we have averaged \$3 million in comp
22 injuries that are ergonomically-related.

23 Our program and strategies are very similar to the
24 one proposed in the standard. However, our concern is that
25 many of the terms used in the language of the proposal, we

1 feel our program is very good and is time-tested to show
2 results. This proposal, as we understand it, may impose
3 additional or unnecessary standards that we feel are
4 unnecessary.

5 Unlike the federal proposal, this proposal does
6 not include trigger levels based on actual accident
7 experience. Rather, it uses the mere presence of risk
8 factors as the trigger, which puts a job under the
9 classification caution zone, and this proposal requires
10 investigation, activity, work hours on the part of the
11 employer to at the very least investigate the job further.
12 If the employer has two or more caution zone jobs, then they
13 must comply with Part II of the proposed rule.

14 With not too liberal an interpretation, I would
15 suggest to you that every job in the industry today could be
16 defined as a caution zone job under the proposed rules.
17 Respect the definitions. Using this definition, then every
18 job would have to be analyzed per widely-accepted national
19 recognized criteria. This is simply too onerous.

20 Concerning the risk factor definitions in the
21 proposal, it contains lots of slippery terms that we are
22 uncomfortable with. For example, under highly repetitive,
23 what does intensive keying mean? There is no quantification
24 given.

25 Also concerning the risk factor definitions, how

1 are employers going to accurately measure and determine
2 certain issues mandated in the proposal? For example, the
3 definition of an awkward neck, back, and wrist posture is
4 given as bent more than 30 degrees for more than two hours
5 per workday.

6 How are employers going to measure, A, the angle
7 of posture deviation greater than 30 degrees, and, B, the
8 amount of time the joint is in that deviated posture. While
9 there are devices on the market that can capture this data,
10 they are expensive to buy, rent, are fragile and somewhat
11 problematic in field use.

12 Finally, under the risk factors, we are not happy
13 with the weights that Washington is using as landmarks. For
14 example, why are 75 pounds once per workday and 55-plus
15 pounds more than once a day used as the landmark weights?
16 Where did those -- Where do these come from? What impact
17 does the elimination of these lifting activities have on the
18 prevention of manual materials handling injuries?

19 Why weren't figures like 90/70 or 30/35 used? I
20 imagine there is no science behind the selection of these
21 weights, and thus there is no correlation in the compliance
22 with this standard provision and the reduction of risk of
23 injury; and isn't that the real intent of a safety standard?
24 For example, as I mentioned before, we agree with this in
25 principle, but there are slippery terms. We oppose these

1 regulations, because experience shows it will be costly and
2 ineffective.

3 A major Washington grocery chain was required by
4 L&I inspectors to revamp and remodel its check stands to
5 prevent carpal tunnel injuries to checkers. The chain spent
6 millions of dollars to comply with the citation. And what
7 was the result? As we understood it, nothing, no
8 discernible effect.

9 Even L&I admits it has been handing out bad
10 information on ergonomics. For years, the department
11 recommended using back belts to prevent lifting injuries,
12 but in 1994, as we understand it, L & I officials finally
13 admitted that little scientific evidence exist to support
14 back belts as preventing injuries. We want to stay away
15 from these type of situations.

16 And we are suggesting that certain criteria be met
17 prior to this proposal being mandated. One, as has been
18 mentioned several times today, conducting a pilot program.
19 As specifically suggested in State law, conduct pilot
20 programs to measure each of the rule's requirements for
21 effectiveness in injury and hazard reduction, implementation
22 cost, and ease of compliance before implementation.

23 No. 2, provide a money-back guarantee. If the
24 department is unwilling to conduct pilot programs to assure
25 the effectiveness of its rules, then the department should

1 agree to reimburse employers for the cost of implementing
2 rule-related ergonomics initiatives that fail to reduce
3 injuries.

4 No. 3, provide technical assistance. Delay
5 implementation of the proposed rule until an adequate level
6 of education, technical assistance, and outreach is
7 available, not just work-in-progress.

8 No. 4, coordinate with other ergonomics-related
9 programs. Prior to final rule adoption or implementation,
10 coordinate rule-making efforts with Federal OSHA and
11 existing enforcement programs, such as the Accident
12 Prevention Program, management responsibilities, personal
13 protective equipment, and others.

14 No. 5, establish clear compliance rules and
15 requirements.

16 No. 6, provide real safe harbor protections for
17 employees to act in good faith.

18 No. 7, clarify worker's compensation issues. The
19 department should, as we are suggesting, clarify in writing,
20 the mere existence of a caution zone job or WMSD hazard
21 cannot be used to support a finding of job-related injury
22 for the purposes of the worker's compensation claim.

23 No. 8, don't second-guess the employer. If an
24 employer makes a good-faith effort to identify, prioritize,
25 and correct hazards, the department should not substitute

1 its judgment for that of the employer, unless the department
2 can show to a substantial certainty that its proposed
3 corrective action will result in a greater reduction of
4 injuries.

5 No. 9, restore employer flexibility. The rule
6 goes too far by giving extraordinary power to employees to
7 select the measures to reduce hazard exposure. Employee
8 input is valuable and should not supplant the employer's
9 judgment. Ensure that the use of recovery cycles, health
10 club memberships, massages, et cetera, are options available
11 to the employer rather than mandates.

12 And finally, No. 10, automation and part-time work
13 force as abatement measures. Clarify that the rule does not
14 prohibit employers' use of a part-time work force, temporary
15 employees, or the use of automation where allowable in the
16 workplace.

17 Thank you.

18 MR. WALTERS: Thank you. There's a question.

19 MR. WOOD: You referenced a particular
20 Washington grocery chain who -- analysis of the injury data.
21 I was wondering if you had a citation or reference to the
22 study, or if you have a copy, or could make a copy available
23 for the record.

24 MR. KEYS: I don't have one right now. Would
25 you like me to do that?

1 MR. WOOD: Yes.

2 MR. KEYS: You bet.

3 MR. WOOD: We'd appreciate that. Thank you.

4 MR. WALTERS: Thank you all.

5 Dave D'Hondt and Russell Martz?

6 (Discussion off the record.)

7 MR. WALTERS: Mr. D'Hondt.

8 MR. D'HONDT: Yes. My name is David D'Hondt.

9 The last name is capital D, apostrophe, capital H-o-n-d-t.
10 I'm here representing the Absher Construction Company, and
11 we're here with a couple of comments on the proposed rule. .
12 Why Absher Construction is very much for protecting its
13 workers, we have some real problems with the standard as it
14 is written.

15 Our biggest concern is the implementation times
16 that the standard puts forth here. Basically, it says that
17 we need to, within 15 months of adoption date, have
18 awareness education completed. The way that the standard's
19 written, that education awareness is to include job hazard
20 analysis, and without any work being done in construction,
21 to set up best management practices. We think it's a little
22 unfair that we're going to have 15 months in looking for
23 answers where there aren't any.

24 The construction industry as a whole hasn't had
25 the luxury of the United Auto Workers or the meat cutters,

1 where they spent millions and millions of dollars on fixed
2 industry. Construction, definitely, the dynamics change
3 every day on the job site, and we need more time. It just
4 simply is not going to happen. We would like to suggest
5 that construction be changed, and if we can fit into the
6 six-year plan, like some of the other employers, we feel
7 that that is a reasonable amount of time to address some of
8 the hazards.

9 Again, I just want to reiterate on some of the
10 comments already about feasibility. Basically, I would have
11 to agree with one of the previous people that feasible in
12 the eyes of the state of Washington under L&I means a huge
13 amount of money needs to be spent.

14 If there is an answer in construction, we're not
15 sure there are a lot of answers to a lot of the questions,
16 and finding what's feasible is going to take a lot of time
17 and cooperation. And we're willing to spend the time and
18 the cooperation, but we definitely need to come to some kind
19 of agreement.

20 The last thing that I'm here to comment on is the
21 economic impact. I think that when L&I is done with the
22 proposed standard as it is and deals with issues like
23 construction for economic feasibility, you will find that
24 there is not a financial benefit to this rule in any manner,
25 shape, or form. We don't have the luxury of some of the

1 other countries where ergonomics is a matter of history, and
2 in some countries it's considered ancient history.

3 We are going to ask people to reinvent the wheel
4 in ergonomics in the state of Washington in that we're not
5 going to provide them with materials like other countries do
6 that are people-friendly. For example, blocks in countries
7 that are ergonomically-friendly are smaller size, weigh
8 less, have handles built into them.

9 Why should our workers in the state of Washington
10 have to lift a block that is standard because we didn't take
11 the time upfront and coordinate with design professionals
12 and manufacturing across the United States to get this
13 portion of the ergonomic issue, and probably the biggest
14 concern in construction in that we don't have the materials
15 that are worker-friendly at this point in time? Like I
16 mentioned before, it's a matter of history.

17 It's frustrating to have somebody tell a
18 construction owner that you have got to comply with this
19 standard, and we know what the answers are, and yet we're
20 willing to settle for a standard that's less than effective
21 in practice from the standpoint of we're still going to
22 expose workers. What this does leave construction with as
23 far as answers is a more mechanical aspect to lifting. And
24 that's fine; we will do and deal with what we have to deal
25 with here in the United States.

1 That means that we're going to use more mechanical
2 equipment; we're going to have more training time; we're
3 going to rent more boom trucks. But the downside to this
4 is, is that we will have less people working on the job
5 sites. And I hope that Labor, and I hope that L&I
6 understands that, again, we are willing to work with you,
7 but as it sits in the state of Washington right now,
8 ergonomics means less jobs for people.

9 One of my -- Besides being the Safety Director and
10 Director of Risk Management, I've come through the trades; I
11 was a carpenter; I'm still a dues-paying member of
12 Carpenters 470 Local here in Tacoma; I'm a member in good
13 standing, I might add.

14 In talking to carpenters out in the field, they're
15 very concerned about, one, the fact that they're going to
16 have less jobs; two, that they're going to have to spend a
17 lot of money out of their own pockets to retool their own
18 tools, meaning that it's not just going to be a burden
19 through bargaining agreements on owners. There's also going
20 to be a cost to the individuals out there.

21 I would like to finish by saying, again, we want
22 to work with the state of Washington; we want to come up
23 with the best management practices; we want to make our job
24 sites safer for our people. But having this ergonomic
25 standard the way that it is is settling for second best,

1 when we know what the real answer should be.

2 Thank you.

3 MR. WALTERS: Thank you.

4 MR. MARTZ: Good afternoon. My name is
5 Russell, R-u-s-s-e-l-l Martz, M as in Mary a-r-t-z.

6 And my main concern this afternoon is the duration
7 for the awkward postures in the caution zone jobs. I do not
8 believe that they go far enough. They have specific hours
9 per work day. They do not include any overtime, and since
10 the recovery time from any of these caution zone jobs should
11 be as important as the actual caution zone job itself is, we
12 should be taking into account recovery.

13 I would suggest that either a weekly or a weighted
14 scale was made on a 40-hour work week or an eight-hour day,
15 as opposed to strictly saying four hours per total workday.
16 That means that four hours per total workday, you can have
17 anywhere from 20 hours to 28 hours per week with no recovery
18 time, whereas if you weighted it on a 40-hour week or based
19 it on a eight-hour weighted day, I think it would be far
20 more advantageous to the employees.

21 MR. WALTERS: Thank you.

22 Is there anyone else who would like to testify on
23 the rule?

24 THE AUDIENCE: (No response.)

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C E R T I F I C A T E

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STATE OF WASHINGTON)
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COUNTY OF KING)

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I, PAULA SOMERS, a duly authorized Notary Public
in and for the State of Washington, do hereby certify that
this is a true transcript of the Public Hearing regarding
Ergonomics; that the said meeting were recorded in shorthand
and later reduced to typewriting; and that the above and
foregoing is a true and correct transcript of said hearing.

I do further certify that I am not a relative of,
employee of, or counsel for either of said parties or
otherwise interested in the event of said proceedings.

I HAVE HEREUNTO set my hand and affixed by
official seal this 19th day of January, 2000.

Paula Somers, CSR
NOTARY PUBLIC in and for the
State of Washington, residing at
Renton.
My commission expires 9/29/03.